



State of Utah

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GUIDELINES

TO: Permitting Branch

FROM: Regg Olsen

DATE: Update April 15, 2013

SUBJECT: Clarification of Area Source Exemptions and Deferrals

1. Since the beginning days of the Title V program, there have been questions concerning the applicability of the program to area sources. The state rules have seen a couple of iterations as we have tried to address area sources consistently with the EPA. The EPA officially deferred area sources from the need to obtain a permit for some time. The issue was finally settled and our current rules reflect our and the EPA position on the matter.

2. Our rules currently read as follows:

R307-415-4(2)(c) *An area source subject to a regulation under Section 111 or 112 of the Act (42 U.S.C. 7411 or 7412) promulgated after July 21, 1992 is exempt from the obligation to obtain a Part 70 permit if:*

- (i) the regulation specifically exempts the area source category from the obligation to obtain a Part 70 permit, and*
- (ii) the source is not required to obtain a permit under R307-415-4(1) for a reason other than its status as an area source under the Section 111 or 112 regulation containing the exemption.*

3. Section 111 or 112 refer to the New Source Performance Standards (NSPS) which are found in 40 CFR 60, the National Emission Standards for Hazardous Air Pollutants (NESHAPs) found in 40 CFR 61, and the National Emission Standards for Hazardous Air Pollutants, also called the Maximum Achievable Control Technology or MACTs found in 40 CFR 63. The EPA intends to make an affirmative declaration on a standard by standard basis as to whether or not the source category should be included in the Title V program. Language similar to the following would be included in the standard:

If you are an owner or operator of an area source subject to this subpart you are exempt from the obligation to obtain a permit under 40 CFR 70 or 71 provided you are not required to obtain a permit under 40 CFR 70.3(a)

(b), or 71.3 (a) or (b) for a reason other than your status as an area source under this subpart. Notwithstanding the previous sentence, you must continue to comply with the provisions of this subpart applicable to area sources.

4. The preamble of the 2005 - five area source MACT exemptions and the OAQPS interpretation of the preceding language is that these area sources are exempt from the Operating Permit Program. This would include our ability to charge Title V fees and therefore no Title V funds should be used for permitting, inventory, or compliance (including inspections) of these sources.

These sources may still be required to submit inventories pursuant to R307-150; however these sources should not be charged Title V fees. They may also be required to obtain permits under other sections of our rules.

5. As of the date of this memo, **the following area sources are exempt from the Title V Program:**

40 CFR Part 60, Subpart AAA – Residential Wood Heaters
40 CFR Part 60, Subpart IIII – Stationary Compression Ignition ICE
40 CFR Part 60, Subpart JJJJ – Stationary Spark Ignition ICE
40CFR Part 60, Subpart OOOO-Crude Oil and Nat. Gas Prod., Trans., & Distribution

40 CFR Part 61, Subpart M – HAPS Asbestos

40 CFR Part 63, Subpart M – Perchloroethylene for Dry Cleaners
40 CFR Part 63, Subpart O – Ethylene Oxide for Sterilization Facilities
40 CFR Part 63, Subpart T – Halogenated Solvent Cleaning
40 CFR Part 63, Subpart RRR – Secondary Aluminum Production
40 CFR Part 63, Subpart N – Chromium Electroplating and Anodizing Tanks
40 CFR Part 63, Subpart HH – Oil and Natural Gas Production
40 CFR Part 63, Subpart ZZZZ – Stationary Reciprocating Internal Combustion Engines
40 CFR Part 63, Subpart WWWW – Hospital Sterilizers
40 CFR Part 63, Subpart ZZZZ – Iron and Steel Foundries
40 CFR Part 63, Subpart BBBB – Gasoline Dist. Bulk Term, Bull, Pipe
40 CFR Part 63, Subpart DDDDD – Polyvinyl Chloride & Copolymers Production
40 CFR Part 63, Subpart CCCCC – Gasoline Dispensing Facilities
40 CFR Part 63, Subpart HHHHH – Paint Stripping & Misc. Surface Coating
40 CFR Part 63, Subpart JJJJJ – Industrial, Commercial, and Institutional Boilers
40 CFR Part 63, Subpart LLLLL – Acrylic and Modacrylic Fibers Production
40 CFR Part 63, Subpart OOOOO – Flexible Polyurethane Foam
40 CFR Part 63, Subpart PPPPP – Lead Acid Battery Manufacturing
40 CFR Part 63, Subpart QQQQQ – Wood Preserving
40 CFR Part 63, Subpart RRRRR – Clay Ceramics
40 CFR Part 63, Subpart TTTTT – Secondary Nonferrous Metals
*40 CFR Part 63, Subpart VVVVV – Chemical Manufacturing
40 CFR Part 63, Subpart WWWW – Plating and Polishing Operations
40 CFR Part 63, Subpart XXXXX – Nine Metal Fabrication & Finishing Catagories
40 CFR Part 63, Subpart YYYYY – Ferroalloys Production Facilities

40 CFR Part 63, Subpart ZZZZZZ - Aluminum, Copper, and Other Nonferrous Foundries
40 CFR Part 63, Subpart AAAAAAAA - Asphalt Processing & Asphalt Roofing Mfg.
40 CFR Part 63, Subpart BBBBBBBB – Chemical Preparations Industry
40 CFR Part 63, Subpart CCCCCCCC - Paints and Allied Products Manufacturing
40 CFR Part 63, Subpart DDDDDDDD - Prepared Feeds Manufacturing

6. A second category of area sources are those that have been “temporarily” deferred. These sources and their Title V obligation are outlined in the state rules, and read:

R307-415-5a(3)(c) Area sources.

(i) Except as provided in (c)(ii) and (c)(iii) below, each Part 70 source that is not a major source, a Title IV affected source, or a solid waste incineration unit required to obtain a permit pursuant to section 129(e) (42 U.S.C. 7429), is deferred from the obligation to submit an application until 12 months after the Administrator completes a rulemaking to determine how the program should be structured for area sources and the appropriateness of any permanent exemptions in addition to those provided in R307-415-4(2).

These area sources have not been exempted from the Title V program; they are only deferred from submitting permit applications until we (and the EPA) conduct rulemaking to address these sources. Therefore, these sources are currently part of the Part 70 program and should be charged applicable Title V fees and Title V funds may be used for inventory and compliance of these sources.

7. If you have any questions regarding this issue, please contact Dave Beatty or myself.

This Guideline shall be audited every two years by the Operating Permits Manager to determine the current status and relevance of the information.

*40 CFR 63, Subpart VVVVVV – Chemical Manufacturing: The exemption language in this subpart varies from the standard language with a conditional exemption as follows:

(e) Any source that was a major source and installed a control device on a CMPU after November 15, 1990, and, as a result, became an area source under 40 CFR part 63 is required to obtain a permit under 40 CFR part 70 or 40 CFR part 71. Otherwise, you are exempt from the obligation to obtain a permit under 40 CFR part 70 or 40 CFR part 71, provided you are not otherwise required by law to obtain a permit under 40 CFR 70.3(a) or 40 CFR 71.3(a). Notwithstanding the previous sentence, you must continue to comply with the provisions of this subpart.

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